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**THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

KERRY O'BRIEN, DAVID DANIELS,
 WILFRED JODOIN,

Plaintiffs,

vs.

GENERAL ELECTRIC COMPANY,
 TODD SHIPYARDS CORPORATION,
 GENERAL DYNAMICS
 CORPORATION, and DOES 1-300,

Defendants.

No. C06-3724 JSW

JOINT MOTION AND STIPULATION TO
 STAY PROCEEDING OR, IN THE
 ALTERNATIVE, TO CONTINUE CASE
 MANAGEMENT DEADLINE AND
 CONFERENCE, AND TO EXTEND TIME;
~~PROPOSED~~ ORDER TO STAY;
~~PROPOSED ALTERNATIVE~~ ORDER
 TO CONTINUE

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Order Setting Initial Case Management Conference* filed June 12, 2006 (Document 2), *Order Setting Case Management Conference and Requiring Joint Case Management Conference Statement* filed June 15, 2006 (Document 3), and *Clerk's Notice* filed August 8, 2006 (Document 14) for the following good cause:

On July 6, 2006, Defendant GENERAL ELECTRIC COMPANY filed Documents 6 and 7, a Notice to Tag Along Action and Letter regarding the pending Multidistrict Litigation ("MDL") in the Eastern District of Pennsylvania, seeking among other things, to move

1 Jurisdiction of this matter to that District. On July 21, 2006 Defendant TODD SHIPYARDS
2 CORPORATION filed a similar Notice to Tag Along Action (Document 10).

3 On July 29, 1991, the Judicial Panel on Multidistrict Litigation ("JPML") entered an
4 order transferring all asbestos personal injury cases pending in the federal courts to the United
5 States District Court for the Eastern District of Pennsylvania, for coordinated pretrial
6 proceedings pursuant to 28 U.S.C. § 1407. That order also applies to "tag-along actions," or
7 actions involving common questions of fact filed after January 17, 1991. Such actions are to be
8 transferred to the eastern District of Pennsylvania as part of MDL 875, for coordinated pretrial
9 proceedings.

10 The JPML has held that a district court has the authority to stay pending a transfer order.
11 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
12 ("[T]hose courts concluding that such issues should be addressed by the transferee judge need
13 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
14 unnecessary interruption or delay.")

15 The parties agree that it is likely that the JPML will transfer this matter to the Eastern
16 District of Pennsylvania.

17 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*
18 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
19 transferred, pursuant to JPML Rule 13(b).

20 It is likely the dates set forth in the *Order Setting Initial Case Management Conference*
21 filed June 12, 2006 (Document 2), *Order Setting Case Management Conference and Requiring*
22 *Joint Case Management Conference Statement* filed June 15, 2006 (Document 3), and *Clerk's*
23 *Notice* filed August 8, 2006 (Document 14), including the deadlines imposed by Federal Rules
24 of Civil Procedure 26, will come to pass before the Clerk of the JPML acts.

25 The parties make this Motion on the grounds that a stay of this action would (a) promote
26 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
27 parties.

28 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to

1 and respectfully request the Court VACATE its *Order Setting Initial Case Management*
 2 *Conference* filed June 12, 2006 (Document 2), *Order Setting Case Management Conference and*
 3 *Requiring Joint Case Management Conference Statement* filed June 15, 2006 (Document 3), and
 4 *Clerk's Notice* filed August 8, 2006 (Document 14), and that the Court issue an Order STAYING
 5 this action pending the outcome of the MDL Panel's decision on the merits of the transfer.

6 In the alternative, the parties hereby STIPULATE to and respectfully request that the
 7 dates set forth in the *Order Setting Initial Case Management Conference* filed June 12, 2006
 8 (Document 2), *Order Setting Case Management Conference and Requiring Joint Case*
 9 *Management Conference Statement* filed June 15, 2006 (Document 3), and *Clerk's Notice* filed
 10 August 8, 2006 (Document 14) be vacated and continued pending the outcome of the JPML's
 11 decision on the merits of the transfer. Specifically, these deadlines include the **September 22,**
 12 **2006** deadline to meet and confer, and file Joint ADR Certification, the **October 6, 2006**
 13 Deadline to complete Initial Disclosures, the **October 20, 2006** deadline to file the Joint Case
 14 Management Statement, and the Case Management Conference currently set for **October 27,**
 15 **2006.**

16 Dated: August 25, 2006

BRAYTON♦PURCELL LLP

/s/ David R. Donadio

18 By: _____
 19 David R. Donadio
 Attorneys for Plaintiffs

20 Dated: August 30, 2006

SEDGWICK, DETERT, MORAN &
 21 ARNOLD, LLP

/s/ Damon McClain

22 By: _____
 23 Damon McClain
 Attorneys for Defendant
 24 GENERAL ELECTRIC COMPANY

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1 Dated: August 25, 2006

YARON & ASSOCIATES

2 /s/ Anne V. Leinfelder

3 By: _____
4 Anne V. Leinfelder
5 Attorneys for TODD SHIPYARDS
6 CORPORATION

6 Dated: August 28, 2006

JACKSON & WALLACE LLP

7 /s/ Christine Roy Toreson

8 By: _____
9 Christine Roy Toreson
10 Attorneys for GENERAL DYNAMICS
11 CORPORATION

11 ~~[PROPOSED]~~ ORDER TO STAY

12 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Order*
13 *Setting Initial Case Management Conference* filed June 12, 2006 (Document 2), *Order Setting*
14 *Case Management Conference and Requiring Joint Case Management Conference Statement*
15 filed June 15, 2006 (Document 3), and *Clerk's Notice* filed August 8, 2006 (Document 14) are
16 hereby VACATED and that this action is STAYED pending the outcome of the JPML's decision
17 on the merits of the transfer.

18 Dated: August 31, 2006

19 
20 Jeffrey S. White
21 United States District Court Judge

22 ~~[PROPOSED ALTERNATIVE]~~ ORDER TO CONTINUE

23 ~~IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Order*~~
24 ~~*Setting Initial Case Management Conference* filed June 12, 2006 (Document 2), *Order Setting*~~
25 ~~*Case Management Conference and Requiring Joint Case Management Conference Statement*~~
26 ~~filed June 15, 2006 (Document 3), and *Clerk's Notice* filed August 8, 2006 (Document 14) are~~
27 ~~hereby VACATED.~~

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1 IT IS FURTHER ORDERED that the following case management deadlines are
2 continued as follows:

3 1. Last day to meet and confer re initial disclosures, early settlement, ADR process
4 selection, and discovery plan is [set for a date on or after December 10, 2006 to wit:]
5 _____, 2006;

6 2. Last day to file Joint ADR Certification with Stipulation to ADR process or
7 Notice of Need for ADR Phone Conference is [set for a date on or after December 10, 2006 to
8 wit:] _____, 2006;

9 3. Last day to complete initial disclosures or state objection to Rule 26(f) Report,
10 file/serve Case Management Statement and file/serve Rule 26(f) Report is [set for a date on or
11 after December 10, 2006 to wit:] _____, 2006; and

12 4. The Case Management Conference is [set for a date after December 10, 2006 to
13 wit:] Friday _____ 200_____ at 1:30 p.m., Courtroom 2, 17th Floor, 450
14 Golden Gate Avenue, San Francisco, California.

15 Dated: _____

16 _____
17 Jeffery S. White
18 United States District Court Judge
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